



• UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,236	09/28/2001	Todd W. Pastrick	DON01 P-927	7305

28101 7590 09/24/2002

VAN DYKE, GARDNER, LINN AND BURKHART, LLP
2851 CHARLEVOIX DRIVE, S.E.
P.O. BOX 888695
GRAND RAPIDS, MI 49588-8695

EXAMINER

SEMBER, THOMAS M

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 09/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/967,236	Applicant(s) Pastrick
	Examiner Thomas Sember	Art Unit 2875
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --		
Period for Reply		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>1</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.		
<p>- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</p> <p>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</p> <p>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</p> <p>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</p> <p>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p>		
Status		
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Jun 24, 2002</u>		
2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final.		
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.		
Disposition of Claims		
4) <input checked="" type="checkbox"/> Claim(s) <u>107-245</u> is/are pending in the application.		
4a) Of the above, claim(s) <u>115-117, 123, 124, 148-150, 156, 157, 180-182</u> is/are withdrawn from consideration.		
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.		
6) <input checked="" type="checkbox"/> Claim(s) <u>107-114, 118-122, 125-147, 151-155, 158-179, 183-187, 190-213, 2</u> is/are rejected.		
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.		
8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.		
Application Papers		
9) <input type="checkbox"/> The specification is objected to by the Examiner.		
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. <p style="margin-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p>		
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. <p style="margin-left: 20px;">If approved, corrected drawings are required in reply to this Office action.</p>		
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.		
Priority under 35 U.S.C. §§ 119 and 120		
13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). <p style="margin-left: 20px;">a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). 		
<p>*See the attached detailed Office action for a list of the certified copies not received.</p>		
14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e). <p style="margin-left: 20px;">a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.</p>		
15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.		
Attachment(s)		
1) <input type="checkbox"/> Notice of References Cited (PTO-892)		
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____		
4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____		
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)		
6) <input type="checkbox"/> Other: _____		

Art Unit: 2875

Response to Restriction/Election

Claims 115-117, 123-124, 148-150, 156-157, 180-182, 188-189, 214-216, and 222-223 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 6.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 102-114, 118-122, 125-147, 151-155, 158-179, 183-187, 190-213, 217-221 and 224-245 are rejected under the judicially created doctrine of double patenting over claims 1-62 of U.S. Patent No. 6,296,379, claims 1-61 of U.S. Patent No. 6,299,33, claims 1-40 of U. S. Patent No. 6,176,602, claims 1-165 of U.S. Patent No. 5,879,074, claims 1-111 of U. S. Patent No

Art Unit: 2875

6,086,229, claims 1-164 of U. S. Patent No 6,074,077, claims 1-106 of U. S. Patent No 5,497,306, claims 1-10 U. S. Patent No 5,313,335, and claims 1-21 of U. S. Patent No 5,669,705 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP. § 804.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 107-111, 118, 121, 128 and 134-135 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 61-188242. JP 61-188242 discloses a rearview mirror signal light assembly positioned on a side of a vehicle. The turn assembly includes a light source that radiates light

Art Unit: 2875

rearwardly along a light-radiating axis which extends away from the passenger compartment of the vehicle when operated on the vehicle. The turn signal assembly 34 is fixedly mounted in the exterior mirror assembly separate from the reflectance element 8 whereby movement of the reflectance element is independent of the turn signal assembly. The turn signal assembly 34 further includes at least one louver 46, configured to shield the driver from light radiated by the light sources. As broadly claimed, the light source's radiating axis is at an angle of at least *approximately* 15, 20, 25 or 45 degrees from a longitudinal axis of the vehicle.

Claims 107-111, 118, 121, 128 and 134-135 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 3635473. DE 3635473 discloses a rearview mirror signal light assembly positioned on a side of a vehicle. The turn assembly includes a light source that radiates light rearwardly along a light-radiating axis which extends away from the passenger compartment of the vehicle when operated on the vehicle. The turn signal assembly 11 is fixedly mounted in the exterior mirror assembly separate from the reflectance element 4 whereby movement of the reflectance element is independent of the turn signal assembly. The turn signal assembly 11 further includes at least one louver 12, configured to shield the driver from light radiated by the light sources. As broadly claimed, the light source's radiating axis is at an angle of at least *approximately* 15, 20, 25 or 45 degrees from a longitudinal axis of the vehicle.

Art Unit: 2875

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

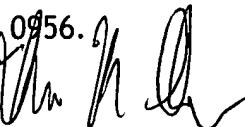
6. Claims 112-114, 119-120, 122, 125-127, 129-133, 136-140 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 61-188242 or DE 3635473. JP 61-188242 or DE 3635473 discloses the claimed invention except for the colored filtering means, LED, electrochromic reflectance element and photo sensor. It would have been an obvious engineering design choice to use various colored filters, LEDs, photo sensors or an electrochromic reflectance member for the assembly of JP 61-188242 or DE 3635473 since such a change would merely be a known modification in the rearview mirror illumination art.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Sember whose telephone number is (703) 308-1938. The examiner can normally be reached on Monday - Thursday from 8:00 AM - 5:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea, can be reached at (703)-305-4939. The fax phone number for this group are (703) 872-9318 for regular communications and (703)-872-9319 for after-final communications.

Art Unit: 2875

Any inquiries of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-0956.



Thomas M. Sember
Primary Examiner
September 17, 2002